

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Drummond Company, Inc.)
Plaintiff,)
v.)
Terrence Collingsworth and)
Conrad & Scherer, LLP,)
Defendants.)
Case No. 1:13-mc-00690-JBW-JO

DECLARATION OF H. THOMAS WELLS, III

I, H. Thomas Wells, III, hereby declare as follows:

1. I am a partner in the law firm of Starnes Davis Florie LLP and an attorney for Plaintiff Drummond Company, Inc. (“Drummond”). I submit this declaration in support of Drummond’s Opposition to the Defendants’ Motion to Quash Drummond’s Subpoena to Third-Party Parker Waichman, LLP, and/or Motion for a Protective Order. This declaration is based on my personal knowledge.

2. Attached as exhibits to Drummond's opposition brief are true and correct copies of the following documents. I have noted where the documents include a certified translation from Spanish and where the documents were produced by Defendants in litigation under the Alien Tort Statute ("ATS") filed by Mr. Collingsworth against Drummond, primarily *Balcero v. Drummond Co., Inc.*, No. 2:09-cv-1041 (N.D. Ala.) ("Balcero litigation").

Exhibit	Date of Document(s)	Description
Exhibit A	January 18, 2011 February 4, 2011 September 19, 2011	Letter (excluding attachments) from Mr. Collingsworth to the Prime Minister of The Netherlands, and others Letter from Mr. Collingsworth to the Vice Minister of The Netherlands, and others Letter from Mr. Collingsworth to the President and CEO of Itochu Corporation
Exhibit B	October 21, 2011	Complaint in <i>Drummond Company, Inc. v. Terrence P. Collingsworth, et al.</i> , 2:11-cv-3695-RDP (N.D. Ala.)
Exhibit C	January 31, 2013	Defendants' Rule 26 Disclosures in defamation case
Exhibit D	July 18, 2013	Declaration of Terrence P. Collingsworth submitted in opposition to Drummond's motion to compel in defamation case
Exhibit E	August 16, 2013	Subpoena issued to Parker Waichman, LLP by Drummond, with cover letter
Exhibit F	July 30, 2009 – January 4, 2013	Bank deposit slips showing payments to Jairo de Jesus Charris Castro (produced by Defendants in <i>Balcero</i> litigation)
Exhibit G	February 2, 2013 – September 30, 2013	Bank deposit slips showing payments to Jairo de Jesus Charris Castro (produced by Defendants in defamation case – CS 002491-2493)
Exhibit H	N/A	Summary chart of payments to Charris
Exhibit I	May 16, 2012	Excerpt from letters rogatory testimony of Charris in <i>Balcero</i> litigation
Exhibit J	April 16, 2010	Email from Yineth Baeza to Lorraine Leete, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit K	N/A	Google Translation page from El Instituto Latinoamericano de Altos Estudios (ILAE) showing information about Ricardo Garzon
Exhibit L	April 13, 2010	Charris email to Yineth Baeza, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit M	April 15, 2011	Email from Duarte to Lorraine Leete, with certified translation (produced by Defendants in <i>Balcero</i> litigation)

Exhibit	Date of Document(s)	Description
Exhibit N	April 18, 2011	Wire transfer confirmation from Conrad & Scherer account to Leidy Johana Perez Valencia, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit O	April 20, 2011	Series of emails between Duarte and Lorraine Leete, with certified translations (produced by Defendants in <i>Balcero</i> litigation)
Exhibit P	April 29, 2011	Wire transfer confirmation from Conrad & Scherer account to Katerin Durango Avendano, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit Q	November 28, 2011	Wire transfer confirmation from Conrad & Scherer account to Celina Lombari Nieves (produced by Defendants in <i>Balcero</i> litigation)
Exhibit R	October 4, 2010	Rule 26 disclosures served by Defendants on Drummond in <i>Balcero</i> litigation
Exhibit S	June 26, 2013	Defendants' Amended Answers to Plaintiff's Second Set of Interrogatories
Exhibit T	April 8, 2008 May 14, 2008	Email from Susana Tellez at Conrad & Scherer to Jose Pinzon discussing a MoneyGram transfer; email from Rebecca Pendleton to Jose Pinzon confirming a MoneyGram transfer of 401,673.15 pesos, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit U	October/November 2008	Emails between Rebecca Pendleton and Halcon, with certified translation (produced by Defendants in <i>Balcero</i> litigation)
Exhibit V	January 9, 2009 – August 3, 2012	Receipts for wire transfers of approximately \$1250 per month to Jose Pinzon (produced by Defendants in <i>Balcero</i> litigation)
Exhibit W	N/A	Copies of pages from websites suggesting that Richard Gordon, Andy Tejeda, Jeremy Puentes and Jonathan Castano are affiliated with Conrad & Scherer
Exhibit X	August 16, 2013	Cover letter signed by Maggie Crosby on behalf of Conrad & Scherer
Exhibit Y	October 2, 2012 October 15, 2012	Two receipts for wire transfers of approximately \$1250 each to Jose Pinzon (produced by Defendants in the defamation case – CS 002402 and 2404)

Exhibit	Date of Document(s)	Description
Exhibit Z	September 26, 2012	Emails between Jose Pinzon and Maggie Crosby discussing “economic support” for their “common friend,” presumably Halcon
Exhibit AA	July 2010	Emails between Pinzon and Susanna Tellez in which Pinzon suggests that they misrepresent the payments as payments from family members and Collingsworth writes a letter to Moneygram’s Bogota offices stating that the payments are for “fieldwork” (produced by Defendants in the defamation case – CS 002148-2158)
Exhibit BB	October 10, 2013	Transcript of October 10, 2013 hearing before Judge R. David Proctor in the defamation case
Exhibit CC	October 15, 2013	Judge R. David Proctor’s Order on Drummond and Defendants’ respective motions to compel in the defamation case
Exhibit DD	N/A	International Rights Advocates’ web pages

3. On October 3, 2013, Defendants produced a large number of additional documents in this case, more than 400 pages of which pertain to payments to Colombian paramilitary witnesses.

4. The parties held a telephonic meet and confer for this motion on October 14, 2013. During that meet and confer, counsel for the Defendants agreed to withdraw the Defendants’ jurisdictional objection to Drummond’s subpoena due to the fact that Drummond had served a revised subpoena on Parker Waichman LLP commanding production within the Eastern District of New York.

5. Approximately ten current and former Drummond employees were deposed in the *Balcero* litigation. No witness testified that Drummond collaborated with Colombian paramilitaries and, when asked, each testified that Drummond had a policy against doing so.

Payments to Jairo de Jesus Charris Castro (“Charris”)

6. Jairo de Jesus Charris Castro is an imprisoned Colombian paramilitary who provided a declaration and letter rogatory testimony for Defendants in the *Balcero* litigation.

7. **Exhibit F** is a composite of several bank slips showing payments to Charris. These slips are dated July 30, 2009, to January 4, 2013.

8. **Exhibit G** is a composite of several bank slips showing eight additional payments to Charris in 2013, with the last payment dated September 20, 2013. These documents were produced as part of the Defendants’ October 3, 2013 document production in the defamation case. In all, Charris has been paid over \$38,000 by the Defendants. **Exhibit H** is a summary of the payments to Charris.

9. All but one of those payments is from Ricardo Garzon or Yineth Baeza to Claudia Pinzon. Claudia Pinzon is the wife of Charris as shown by Charris’ letter rogatory testimony, attached as **Exhibit I**. The July 30, 2009 payment was from Ricardo Garzon to Mery Luz Molina Morales.

10. The payments to Charris were facilitated by Yineth Baeza and Ricardo Garzon. According to an email from Ms. Baeza, which is attached as **Exhibit J**, she is an “assistant to the lawyers handling the case” including “Doctor Francisco”—believed to be Francisco Ramirez.

11. According to information available on the internet, attached as **Exhibit K**, Ricardo Garzon is a “field attorney” in Colombia for International Rights Advocates (“IRA”) and Conrad & Scherer.

12. Charris sent an email to Yineth Baeza requesting additional money for his family’s possible move to Barranquilla, Colombia. A true and correct copy is attached as **Exhibit L**.

Payments to Libardo Duarte (“Bam Bam”)

13. Libardo Duarte, a/k/a “Bam Bam,” is an imprisoned Colombian paramilitary who provided a declaration and letter rogatory testimony for Defendants in the *Balcero* litigation.

14. Defendants produced a series of emails and wire transfer confirmations in the *Balcero* litigation that relate to payments to Duarte. They are attached as **Exhibits M to Q**.

15. Also produced by Defendants in the *Balcero* litigation was a wire transfer confirmation dated November 28, 2011, from the same Conrad & Scherer bank account to the same bank in Colombia as the payments to Duarte in Exhibits O and Q. This wire transfer was for the benefit of Celina Lombardi Nieves and is attached as **Exhibit Q**.

Payments to Halcon

16. Defendants identified a Colombian paramilitary named “Halcon” as a witness in the *Balcero* litigation. Defendants’ Rule 26 disclosures from the *Balcero* litigation are attached as **Exhibit R**.

17. Among the documents produced by Defendants in the *Balcero* litigation were documents reflecting payments to Jose Joaquin Pinzon Diaquiz. Mr. Collingsworth revealed in supplemental answers to Drummond’s second interrogatories (Interrogatory No. 8) in the defamation case that those payments were for the benefit of “Halcon.” These interrogatory responses are attached as **Exhibit S**.

18. There is an April 8, 2008 email from Susana Tellez at Conrad & Scherer to Jose Pinzon discussing a MoneyGram transfer, and a May 14, 2008 email from Rebecca Pendleton to Jose Pinzon confirming a MoneyGram transfer of 401,673.15 pesos. These emails are attached as **Exhibit T**.

19. There is also a chain of emails between Ms. Pendleton and Halcon in October and November 2008 discussing an agreement to provide Halcon with payments on the fifteenth of every month. These emails are attached as **Exhibit U**.

20. Defendants produced in the *Balcero* litigation various receipts for wire transfers of approximately \$1250 per month to Jose Pinzon from January 9, 2009, through August 3, 2012. These receipts are attached as **Exhibit V**. The total amount paid to Pinzon was over \$50,000.

21. The payments to Jose Pinzon from 2009 to 2011 were from individuals in Florida named Richard Gordon, Andy Tejeda, Jeremy Puentes and Jonathan Castano. Internet sites suggest that all four of these people are affiliated with Conrad & Scherer. Copies of those website pages are attached as **Exhibit W**.

22. The payments to Jose Pinzon in 2012 were from Maggie Crosby, who is an employee of Conrad & Scherer in Washington, DC. A cover letter producing these documents was signed by Ms. Crosby and is attached as **Exhibit X**.

23. In their most recent document production in the defamation case (on October 3, 2013), there are two additional receipts for wire transfers to Pinzon, each in the amount of \$1,250, on October 2, 2012, and October 15, 2012. A copy of these receipts are attached as **Exhibit Y**. Prior to receiving those wire transfers, Pinzon emails Maggie Crosby asking “what is going to happen with our common friend” and telling Ms. Crosby that the friend “depend[s] on your economic support.” This email is attached as **Exhibit Z**.

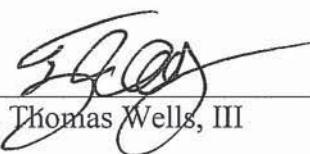
24. After MoneyGram—one of the companies used to wire the payments—raised questions about the payments, Pinzon wanted to misrepresent them as payments from family

members. In response, Mr. Collingsworth provided a letter clarifying that the payments were for “fieldwork.” These emails and letter are attached as **Exhibit AA**.

25. On October 10, 2013, United States District Court Judge R. David Proctor held a hearing on motions to compel filed by Drummond and the Defendants in the defamation case. A copy of the transcript of that hearing is attached as **Exhibit BB**. On October 15, 2013, Judge Proctor entered an Order on the parties’ pending motions. A copy of that order is attached hereto as **Exhibit CC**.

I hereby state under penalty of perjury that the statements above are true and correct.

October 17, 2013



H. Thomas Wells, III